

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Jaimie Vernon	Team: Squad #4	CCRB Case #: 201504831	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 06/14/2015 4:05 PM	Location of Incident: West 53rd Street and 5th Avenue	Precinct: 18	18 Mo. SOL 12/14/2016	EO SOL 12/14/2016	
Date/Time CV Reported Mon, 06/15/2015 8:32 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 06/15/2015 8:32 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT James Slavin	2133	933362	017 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Russell Kastin	31821	927018	017 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT James Slavin	Abuse: Sgt. James Slavin stopped § 87(2)(b)	
B.SGT James Slavin	Abuse: Sgt. James Slavin frisked § 87(2)(b)	
C.SGT James Slavin	Abuse: Sgt. James Slavin searched § 87(2)(b)	
D.SGT James Slavin	Abuse: Sgt. James Slavin threatened to arrest § 87(2)(b)	
§ 87(4-b) § 87(2)(g)		

Case Summary

On June 15, 2015, the CCRB received the complaint of § 87(2)(b) made via the Intake line. § 87(2)(b) is a non-witnessing complainant who made this complaint on behalf of her § 87(2)(b) year-old son, § 87(2)(b). § 87(2)(b) also filed a complaint online about this incident on June 19, 2015. On June 29, 2015, § 87(2)(b) provided a phone statement, after which this case was sent to Mediation (Board Review 01). When it was returned on August 18, 2015, § 87(2)(b) was asked to provide an in-person statement, which he did on September 29, 2015 (Board Review 02). § 87(2)(g)

§ 87(2)(b)

On June 14, 2015, during the last Puerto Rican Day Parade, § 87(2)(b) attended the parade with several family and friends: § 87(2)(b), § 87(2)(b), § 87(2)(b) (last name unknown), § 87(2)(b) (last name unknown), his aunt, § 87(2)(b), his uncle, § 87(2)(b) and § 87(2)(b) parents. The party remained at the intersection of West 53rd Street and Fifth Avenue.

Around 5:00PM, § 87(2)(b) noticed Sgt. James Slavin of the 18th Precinct staring straight at him from a few feet in front of him. When § 87(2)(b) who had become anxious, tried to leave the sergeant's sight, PO Russell Kastin on the 18th Precinct approached § 87(2)(b) and told him his sergeant would like to speak with him.

§ 87(2)(b) obeyed and walked toward Sgt. Slavin. As he did so, Sgt. Slavin moved toward him, lifted him up by his shirt, and placed him against a wall (**Allegation A**). Sgt. Slavin then frisked § 87(2)(b)'s entire body (**Allegation B**). He then slipped a hand inside § 87(2)(b)'s waistband (**Allegation C**).

After finding nothing on § 87(2)(b), Sgt. Slavin asked him for his ID. § 87(2)(b) took out his wallet and provided Sgt. Slavin with his identification. § 87(2)(b) asked Sgt. Slavin what he had done, to which the sergeant responded by pointing to his uniform, which read "Counter-Terrorism". He accused § 87(2)(b) of "performing terrorist acts" and told him, "I arrested a lot of people today; don't be one of them" (**Allegation D**). After recording § 87(2)(b)'s pedigree information, Sgt. Slavin released § 87(2)(b) at the scene. § 87(2)(b) was not arrested or summonsed during this incident.

Video Footage

§ 87(2)(b) took a partial cell phone video of this incident (Board Review 03):



2015-11-13_18-32-30.mp4

§ 87(2)(b) explained that a woman he did not know recorded almost the entire incident on her phone. However, he and his friends and family left the scene before he was able to ask her for the video. The investigation has been unable to identify this woman or to obtain this video.

Mediation, Civil and Criminal Histories

§ 87(2)(b) and § 87(2)(b) accepted mediation. However, Sgt. Slavin rejected mediation, and the case was sent back to the Investigations Division on August 18, 2015. § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(g)]

Civilian and Officer CCRB Histories

This is the first and only CCRB complaint for both § 87(2)(b) and § 87(2)(b)

Sgt. Slavin has been a member of the service for twelve years. In case number 200704978, a stop allegation against him was substantiated, and the Board recommended charges. The NYPD issued Command Discipline.

In case number 201411582, allegations of stop, frisk, and search of person were all substantiated against him. The Board recommended Command Discipline and the NYPD disposition is pending. Sgt. Slavin is the primary subject officer in case 201507002 and he is alleged to have used a chokehold and restricted the breathing of an individual. This case is still open and pending investigation.

Potential Issues

§ 87(2)(b) provided two verified statements to the investigation. § 87(2)(g)

The investigation has made extensive attempts to obtain statements from § 87(2)(b)'s friends and family, including § 87(2)(b) and § 87(2)(b). However, only § 87(2)(b) provided a phone statement to the investigation (Board Review 04; see Investigative Actions).

Findings and Recommendations

Allegations not pleaded

- **Abuse of Authority – Sgt. James Slavin strip-searched § 87(2)(b)**
In his original phone statement, § 87(2)(b) alleged that, after the frisk, Sgt. Slavin placed a hand inside § 87(2)(b)'s pants and made brief contact with his genitals. In his in-person statement, § 87(2)(b) clarified that this allegation did not take place. § 87(2)(g)

Allegation A – Abuse of Authority: Sgt. James Slavin stopped § 87(2)(b)

Allegation B – Abuse of Authority: Sgt. James Slavin frisked § 87(2)(b)

Allegation C – Abuse of Authority: Sgt. James Slavin searched § 87(2)(b)

§ 87(2)(b) alleged that, immediately before the incident, Sgt. Slavin stared at him intently for a few minutes. When § 87(2)(b) tried to leave the parade with his friends and family, PO Kastin approached him and said that he must speak with Sgt. Slavin. As § 87(2)(b) approached Sgt. Slavin, the sergeant lifted him up by his shirt and placed him against a wall. Sgt. Slavin immediately frisked § 87(2)(b)'s entire body, focusing on no particular area. Sgt. Slavin then briefly slipped a hand into § 87(2)(b)'s waistband (Board Review 01, Board Review 02). § 87(2)(b) never learned the exact reason why Sgt. Slavin stopped him.

§ 87(2)(b) generally corroborated § 87(2)(b)'s account, adding that Sgt. Slavin told him from the outset, "You're in big trouble." He saw Sgt. Slavin frisk § 87(2)(b)'s legs and abdomen (Board Review 04).

Sgt. Slavin explained that he and PO Kastin were assigned to Counter-Terrorism for the parade and, as such, were actively looking for any possible threats. He spotted § 87(2)(b) within a group of § 87(2)(b)'s friends and family and noticed immediately a cylinder-shaped bulge near his waistband (Board Review 05). He stared intently at § 87(2)(b) to see what he would do next. § 87(2)(b) and one of his friends noticed Sgt. Slavin staring at § 87(2)(b). § 87(2)(b) first tried to shift the bulge downward so that it was not as noticeable. He also bent his body so as to shield the bulge from the sergeant's view. § 87(2)(b)'s friend then tried to cover § 87(2)(b) so as to block him from the sergeant's view. These factors all alerted Sgt. Slavin to the possibility that § 87(2)(b) might have been hiding a revolver, which is why he approached him. These observations were also noted in Sgt. Slavin's memo book (Board Review 06).

Without a word, Sgt. Slavin went directly to the bulge on § 87(2)(b)'s waistband and felt it. Still believing that the object was a weapon based on its cylindrical shape, he slipped a hand inside § 87(2)(b)'s waistband. Upon feeling the object, he realized that § 87(2)(b) was concealing a bottle of alcohol in his waistband, not a weapon. He decided to frisk the rest of § 87(2)(b)'s body for safety reasons, finding nothing of concern. He then asked § 87(2)(b) for his ID and, after directing PO Kastin to take his pedigree information down, released him from the scene, using his discretion to not summons § 87(2)(b) for carrying a bottle of alcohol.

PO Kastin stated that Sgt. Slavin asked him to stop § 87(2)(b) and another young man. He did not know why Sgt. Slavin decided to stop these individuals until after § 87(2)(b) was released, at which time Sgt. Slavin told him of his observations. Sgt. Slavin informed him that § 87(2)(b) had a flask of alcohol in his pants. He saw Sgt. Slavin frisk § 87(2)(b)'s entire body, but did not see Sgt. Slavin search him. PO Kastin had not noticed either any bulges or suspicious behaviors on the part of either of the young men during the incident (Board Review 07). PO Kastin did not notice a bulge upon approaching § 87(2)(b) who appeared to be attending the parade with his family.

§ 87(2)(b) did not state that he carried a bottle of alcohol with him during the incident, and did not admit to having a bulge in his waistband area. § 87(2)(b) also did not state that § 87(2)(b) carried a bottle of alcohol on him and did not notice any bulges on § 87(2)(b)'s clothing. § 87(2)(b) was called to clarify this matter, but he has not yet returned the call as of the writing of this report.

§ 87(2)(b)'s video does not capture the initial stop, frisk, or Sgt. Slavin's search of § 87(2)(b)'s waistband, but it does capture the subsequent frisk of § 87(2)(b)'s body. In the video, § 87(2)(b) faces away from the camera for the majority of the time. Sgt. Slavin can be seen groping a bulge on § 87(2)(b)'s lower right side pants pocket, which holds his wallet. He grips and lifts different areas of § 87(2)(b)'s pants, opening his pockets to peek inside but not entering them. He then indicates that he would like § 87(2)(b) to provide his ID. § 87(2)(b) takes out his wallet and hands it to Sgt. Slavin. At the very end, § 87(2)(b) briefly turns his left side toward the camera, and no bulge is visible in his waistband.



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In *People v. Debour* (1976; 40 N.Y.2d 210; 352 N.E.2d 562; 386 N.Y.S.2d 375), the New York State Court of Appeals ruled that an officer must have an individualized reasonable suspicion that a suspect is engaging, has engaged in, or is about to engage in criminal activity before the suspect can be detained. Furthermore, the officer must have a reasonable belief that the suspect is armed and dangerous in order to frisk the suspect for weapons (Board Review 08).

In *People v. Williams* (1995, 217 A.D.2d 1007; 629 N.Y.S.2d 607), the New York State Supreme Court ruled that if an officer frisked a suspect and felt an object hidden in the suspect's clothing, the officer must plausibly suspect that the object is a weapon before proceeding to search the suspect's clothing (Board Review 09).

§ 87(2)(g)
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§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation D – Abuse of Authority: Sgt. James Slavin threatened to arrest § 87(2)(b)

§ 87(2)(b) stated that after Sgt. Slavin took his ID and requested his pedigree information, he asked Sgt. Slavin what he had done wrong. Sgt. Slavin pointed to the right side of his uniform, which read “Counter-Terrorism”. He accused § 87(2)(b) of “performing terrorist acts” and added, “I arrested a lot of people today; don’t be one of them” (Board Review 01 and Board Review 02).

Both Sgt. Slavin and PO Kastin denied that Sgt. Slavin made that remark or any threat of arrest to § 87(2)(b) (Board Review 05 and Board Review 07).

§ 87(2)(b) stated that Sgt. Slavin told § 87(2)(b) that he was “doing acts like a terrorist”, but did not hear Sgt. Slavin threaten to arrest § 87(2)(b) (Board Review 04).

In the video taken by § 87(2)(b) the conversation between § 87(2)(b) and Sgt. Slavin is inaudible.

§ 87(2)(g)

§ 87(4-b) § 87(2)(g)

§ 87(4-b), § 87(2)(g)

[REDACTED]

Squad: _____

Investigator: _____
Signature Print Date

Supervisor: _____
 Title/Signature Print Date

Attorney: _____
 Title/Signature Print Date